

ASSEMBLY BILL

No. 346

Introduced by Assembly Member Torlakson

February 19, 2009

An act to amend Sections 17077.40, 17077.42, and 17077.45 of the Education Code, relating to joint-use school facilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 346, as introduced, Torlakson. Joint-use school facilities.

Existing law authorizes the State Allocation Board to provide a grant to fund joint-use projects to construct facilities on kindergarten and grades 1 to 12, inclusive, schoolsites if the school district demonstrates that the project meets specified criteria. Eligibility for a joint-use grant is conditioned upon, among other things, demonstration by a school district that (a) it has entered into a joint-use agreement with a specified joint-use partner that specifies the amount of the contribution to be made by the school district and the joint-use partner toward the 50% local share of eligible project costs, and (b) the joint-use partner has agreed to contribute at least 25% of eligible project costs, except as provided.

This bill would authorize the board to provide a grant to fund a joint-use project on property that is adjacent to a schoolsite and owned by a governmental entity, as defined. The joint-use agreement would be required to provide that the land would be leased to the school district for a period that reflects the useful life of the facility to be constructed.

The bill would expand the types of projects that would be eligible to be built using grant funds. Those projects would include a career technical building or shop, science and technology laboratory, science center with exhibits or educational programs that meet current state

content standards, historical or cultural education center with exhibits or educational programs that meet current state content standards, performing arts center, physical education and outdoor recreation site development, and parking facility.

Existing law authorizes the governing board of a school district to enter into agreements to make vacant classrooms or other space in operating school buildings available for rent or lease to community agencies, professional agencies, commercial and noncommercial firms, corporations, partnerships, businesses, and individuals.

This bill would authorize a school district to be approved for a joint-use grant with any of the entities listed above if the governing board of the school district, before entering into a joint-use agreement, determines that shared use of the facility will not interfere with the educational program or activities of a school or class conducted on the real property or in a building, will not jeopardize the safety of the pupils of the school, and benefits the school district and the public at large through beneficial and efficient land use, through a savings, or with the generation of revenue for the school district.

Existing law requires the joint-use agreement to specify the amount of the contribution to be made by the school district and the joint-use partner toward the 50% local share of eligible project costs.

The bill would authorize a school district to include, as part of the local contribution, the value of land or real property upon which the joint-use project is to be built if the school district owns the land or real property and did not pay for it or acquire it with state funds or the school district does not own the land or real property, but it will be given to the district. A portion of the contribution of a joint-use partner, up to 10% of eligible project costs, would be authorized to include equipment with an average useful life expectancy of at least 10 years.

This bill would also require a joint-use agreement to ensure that the school district maintains priority for use of the facilities constructed and provide that the facility will be a public facility with access to the facility guaranteed for public use.

Existing law requires the State Allocation Board to establish standards for determining the amount of the supplemental grant funding to be made available for each joint-use project. A supplemental grant for certain joint-use projects may be provided without regard to the existence of per-pupil eligibility and may be expressed on a per-square-foot cost basis, on a per-pupil cost basis, or on a per-project cost basis.

This bill would limit the amount of these supplemental grants to \$1,250,000 per project per elementary schoolsite, \$1,875,000 per middle schoolsite, and \$2,500,000 per high schoolsite.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 17077.40 of the Education Code is
2 amended to read:

3 17077.40. (a) With funds made available for the purposes of
4 this article, the board may provide a grant to fund joint-use projects
5 to construct facilities on ~~kindergarten to grade 12, inclusive,~~
6 ~~schoolsites.~~ *schoolsites that offer instruction in kindergarten and*
7 *grades 1 to 12, inclusive, or on property that is adjacent to the*
8 *schoolsite and owned by a governmental agency, as defined in*
9 *paragraphs (2) and (3) of subdivision (f) of Section 4420 of the*
10 *Government Code. A joint-use agreement to construct facilities*
11 *on land owned by a governmental agency shall provide that the*
12 *land will be leased to the school district for a time period that*
13 *reflects the useful life of the facility constructed.*

14 (b) A school district may apply to the board for funding under
15 this article for a project that meets any of the following criteria:

16 (1) The joint-use project is part of an application for new
17 construction funding under this chapter; and will increase the size
18 or extra cost associated with the joint use of the proposed
19 multipurpose room, gymnasium, child care facility, library, *career*
20 *technical building or shop, science and technology laboratory,*
21 *science center with exhibits or educational programs that meet*
22 *current state content standards, historical or cultural education*
23 *center with exhibits or educational programs that meet current*
24 *state content standards, performing arts center, physical education*
25 *and outdoor recreation site development, parking facility, or*
26 *teacher education facility beyond that necessary for school use.*

27 (2) The joint-use project proposes ~~to~~ either *to* reconfigure
28 existing school buildings or construct new school buildings, or
29 both, to provide for a multipurpose room, a gymnasium, a library,
30 a child care facility, *career technical building or shop, science*
31 *and technology laboratory, science center with exhibits or*
32 *educational programs that meet current state content standards,*

1 *historical or cultural education center with exhibits or educational*
2 *programs that meet current state content standards, performing*
3 *arts center, physical education and outdoor recreation site*
4 *development, parking facility, or a teacher education facility and*
5 *the project will be located at or adjacent to a school that does not*
6 *have the type of facility for which funds are requested or the*
7 *existing facility is inadequate.*

8 (3) The joint-use project proposes ~~to~~ either *to* reconfigure
9 existing school buildings or construct new school buildings, or
10 both, to provide for facilities to improve pupil academic
11 achievement, and the plans for the facility were accepted for review
12 and approval by the department prior to January 1, 2004.

13 SEC. 2. Section 17077.42 of the Education Code is amended
14 to read:

15 17077.42. In order to be approved for a grant under this article,
16 the applicant *school* district shall demonstrate that it has complied
17 with all of the following:

18 (a) The school district has entered into a joint-use agreement
19 ~~with a governmental agency, public community college, public~~
20 ~~college or public university, or a nonprofit organization approved~~
21 ~~by the board.~~ *one of the following or a combination of any of the*
22 *following:-*

23 (1) *A governmental agency.*

24 (2) *A public community college, a public college, or a public*
25 *university.*

26 (3) *A nonprofit organization approved by the board.*

27 (4) *An entity pursuant to subdivision (a) of Section 17527.*
28 *Before entering into a joint-use agreement with an entity pursuant*
29 *to this paragraph, the governing board of the school district shall*
30 *determine all of the following:*

31 (A) *The shared use of the facility will not interfere with the*
32 *educational program or activities of a school or class conducted*
33 *on the real property or in a building.*

34 (B) *The shared use of the facility will not jeopardize the safety*
35 *of the pupils of the school.*

36 (C) *The shared use of the facility and the joint-use agreement*
37 *benefit the school district and the public at large through beneficial*
38 *and efficient land use, through a savings, or with the generation*
39 *of revenue for the school district.*

1 (b) The joint-use agreement specifies the method of sharing
2 capital and operating costs, specifies relative responsibilities for
3 the operation and staffing of the facility, and specifies the manner
4 in which the safety of the pupils will be ensured.

5 (c) (1) The joint-use agreement specifies the amount of the
6 contribution to be made by the school district and the joint-use
7 partner toward the 50-percent local share of eligible project costs.
8 The

9 *((2) A school district may include, as part of the local
10 contribution for the joint-use project, the value of land or real
11 property upon which the joint-use project is to be built if either of
12 the following conditions exists:*

13 *(A) The school district owns the land or real property and did
14 not pay for or acquire the land or real property with state funds.*

15 *(B) The school district does not own the land or real property,
16 but will be given the land free of charge to the district.*

17 *(3) The contribution made by a joint-use partner shall be no less
18 than 25 percent of eligible project costs, unless the school district
19 has passed a local bond which specifies that proceeds of sale of
20 the bonds are to be used for the joint-use project projects, in which
21 case the school district may opt to provide up to the full 50-percent
22 local share of eligible costs.*

23 *(4) A portion of the contribution of a joint-use partner, up to
24 and not exceeding 10 percent of eligible project costs, may include
25 equipment with an average useful life expectancy of at least 10
26 years if this contribution is included as part of a career technical
27 education joint-use project application.*

28 (d) The school district demonstrates that the facility will be used
29 to the maximum extent possible for both school and community
30 purposes, or both school and higher education purposes, as
31 applicable.

32 *(e) The joint-use agreement ensures that the school district
33 maintains priority for use of the facilities constructed.*

34 *(f) The joint-use agreement provides that the facility will be a
35 public facility with access to the facility guaranteed for public use.*

36 ~~(e)~~

37 (g) (1) The project application qualifies for funding under
38 paragraph (1) of subdivision (b) of Section 17077.40 and the school
39 district has received all approvals necessary for apportionment
40 under this chapter.

(2) The project qualifies for funding under paragraph (2) or (3) of subdivision (b) of Section 17077.40 and the school district has completed preliminary plans for the project and has received State Department of Education approval of the plans.

SEC. 3. Section 17077.45 of the Education Code is amended to read:

17077.45. (a) (1) The board shall establish standards for determining the amount of the supplemental grant funding to be made available for each project under this article.

(1) For a project application qualifying for funding under paragraph (1) of subdivision (b) of Section 17077.40, the supplemental grant shall be in the form of an adjustment to the per-pupil eligibility of the project. This per-pupil eligibility adjustment shall be calculated to cover costs associated with the project that are uniquely related to the joint-use nature of the project, including, but not limited to, any increased costs associated with planning the joint-use aspect of the project.

(2) For a project application qualifying under paragraph (2) or (3) of subdivision (b) of Section 17077.40, the supplemental grant may be provided without regard to the existence of per-pupil eligibility pursuant to this chapter, and may be expressed on a per-square-foot cost basis, on a per-pupil cost basis, or on a per-project cost basis.

(4) *A grant awarded pursuant to paragraph (3) shall not exceed one million two hundred fifty thousand dollars (\$1,250,000) per project per elementary schoolsite, one million eight hundred seventy-five thousand dollars (\$1,875,000) per project per middle schoolsite, or two million five hundred thousand dollars (\$2,500,000) per project per high schoolsite. The grant amounts shall be adjusted annually pursuant to subdivision (b) of Section 17072.10.*

(b) Notwithstanding any other provision of this chapter, project costs may exceed the ~~board's~~ standards established *by the board* pursuant to subdivision (a) only if the excess is paid completely by local or joint-use partner sources.

(c) On July 1 of each year, the board shall apportion to qualifying applicant school districts those funds that it determines are available for the purpose of this article. The board shall not

1 release funds to a qualifying applicant until the project plans have
2 received all approval required pursuant to this chapter, including,
3 but not limited to, the approval of the Division of the State
4 Architect. If the project does not receive all necessary plan
5 approvals within one year of the date of the apportionment, the
6 board shall rescind the apportionment.

7 (d) If the total funding for the purposes of this article is not
8 sufficient to fund all of the joint-use projects for funding under
9 this article, the board shall first fund projects eligible under
10 paragraphs (1), (2), and (3) of subdivision (b) of Section 17077.40
11 in that order. The board may establish other priority standards
12 within that order, as necessary.

13 (e) Except as expressly provided in this article, projects funded
14 pursuant to this article shall comply with all other requirements
15 of this chapter, except for Article 11 (commencing with Section
16 17078.10), which shall apply only to projects under this article if
17 they also qualify for funding under Article 11 (commencing with
18 Section 17078.10).